

Advertisement

Get \$100 off any Sylvan program.

Click here for tutoring offers.

USA TODAY

Classifieds:



Home
News
Travel
Money
Sports
Life
Tech
Weather

Search

powered by YAHOO! GO

Wash/Politics

Washington home

Washington briefs

Election 2004

Government guide

Health

Health home

Medical resources

Health information

Editorial/Opinion

Ed/Op home

Columnists

Cartoons

More News

Top news briefs

Nation briefs

World briefs

States

Lotteries

By the numbers

Special reports

Day in pictures

Snapshots

Offbeat

Video

Talk Today

Marketplace

Real estate

Arcade

Newspaper

Classifieds

News

E-MAIL THIS PRINT THIS SAVE THIS MOST POPULAR SUBSCRIBE

Posted 3/30/2005 9:17 PM

What is a 'journalist'?

By Philip Meyer

Rat on your source or go to jail. When a journalist for a print or broadcast medium faces that choice, he or she usually has the benefit of a deep-pocketed employer who will pay legal fees and keep the paychecks coming.

But two species of journalists — book authors and bloggers — usually lack that comfort. If you are a blogger or are thinking about becoming one, you should worry about that.

In California, Apple Computer is going after three bloggers who it says revealed important trade secrets in their online publications. A state judge has ruled that the bloggers must cough up the names of the person or persons who gave them the information.

Journalism today operates under a kind of feudal system. Just as serfs once provided their labor to the lord of the castle in exchange for protection, reporters today rely on the corporations that hire them to give them the legal clout to take risks in digging out the truth.

Neither the freelance book author nor the lonely blogger typing away in a basement has that protection. The record for time spent in jail to protect a source is held, not by a television or newspaper reporter, but by Vanessa Leggett, an unaffiliated and unpublished author who was investigating a murder case. She served 168 days behind bars in Houston. The court finally let her go with the expiration of the term of the grand jury that wanted her secret.

Hers was a federal case. The Department of Justice, which approves subpoenas of journalists, stayed out of it, deciding that Leggett wasn't a journalist.

Who's protected?

PAYING TOO MUCH FOR AUTO I

ZIP code where you park at night:

Do you currently have auto insurance?

Have you had a U.S. driver's license for more than 3 years?

Has any driver in your household had 2 or more accidents or moving violations in the last 3 years?

INSWEB Get Quote

Today's Top News Stories

- Insurer AIG will pay \$1.6B to settle charges - 3:23 PM
- FCC says a la carte cable would money - 2:55 PM
- Anti-terror efforts have hurt al-Qa - 2:29 PM
- Poll shows increased support for surveillance - 2:15 PM
- Bombing in northwestern Pakistan - 10:15 AM
- Add USATODAY.com RSS feeds

E-Mail Newsletters

Sign up to receive our free **Daily Br newsletter** and get the top news of inbox.

E-mail:

Select one: ☐ HTML ☐

Breaking News E-Mail Alerts

Now the issue of who is a journalist is back. Bloggers, with their lightning response time and great variety of viewpoints and resources, are going around the traditional gatekeepers of news. The California bloggers had hoped the courts would recognize their influence and treat them as journalists so they could be covered by California's shield law, which gives qualified protection to reporters guarding their confidential sources.

• [Get breaking news in your inbox :](#)

Santa Clara County Superior Court Judge James Kleinberg sidestepped the issue of defining journalists by ruling that California law does not protect even recognized journalists in cases that involve theft of trade secrets.

The judge's ruling, now under appeal, was thus a double disappointment to members of the blogging community who crave recognition as journalists. Traditional journalists should support them. There is neither sound moral nor legal justification for claiming that those who work for major news organizations have stronger First Amendment rights than the rest of us.

Thirty-one states and the District of Columbia have qualified shield laws, and court decisions have left grounds for arguing that the First Amendment has the same effect in federal cases. A federal shield law has been proposed by Sens. Richard Lugar, R-Ind., and Christopher Dodd, D-Conn. For certain cases, "it is the very promise of secrecy by a journalist," they have argued in this space, "that ultimately protects the public's right to know."

But all such laws are subject to unpredictable interpretation by the courts, and none tell what to do about bloggers.

As the power to disperse information moves from castle to cottage, bloggers need to band together, find patrons to protect them, or both. That is starting to happen. The recipients of the California subpoenas are getting pro bono legal services from the Electronic Frontier Foundation, established with Silicon Valley money in 1990.

The foundation was created after the Secret Service seized the computers of a small book publisher, Steve Jackson Games, in Austin. Agents thought Steve Jackson's company was involved in the theft and distribution of a BellSouth document that hackers could use to disrupt the 911 emergency system. It wasn't, but Jackson had to lay off employees when he lost the use of his computers, and important electronic mail was deleted when he finally got the computers back.

None of the groups to which Jackson turned for aid understood the technology enough to appreciate the civil-liberties issue.

Three men who did understand it finally got together to form the foundation: Mitch Kapor, former president of Lotus Development, John Gilmore, an early employee of Sun Microsystems, and Perry Barlow, lyricist for the Grateful Dead. And they supported Jackson's company in a lawsuit that established the rule that electronic mail deserves as much protection as telephone conversations.

Since then, the organization has grown to 15,000 dues-paying members. It has an international presence in its support for civil-rights issues involving high technology.

Bloggers are often compared with the lonely pamphleteers who flourished in the 15th century when printing with movable type was a new technology. Professional associations and support groups will make them less lonely.

As for Vanessa Leggett, her true-crime book is still in progress. She has a publisher and a New York agent. But book authorship, still a low-tech enterprise, is likely to remain a solitary task.

Philip Meyer is the Knight Professor of Journalism at the University of North Carolina at Chapel Hill. He also is author of The Vanishing Newspaper and a member of USA TODAY's board of contributors.

Related advertising links [What's this?](#)

\$100K Executive-Level Jobs

Find recently open \$100K-p...

www.theladders.com

Free Hot Stock Picks from The Stockster

Free commonsense penny stock picks that...

www.TheStockster.com


Mortgage Rates as Low as 2.9%

Up to 4 free offers! Compare and...

www.homeloantrust.com

[Place your ad here](#)

Subscribe Today: Home Delivery of USA TODAY - Save 35%

	THE	\$83+ RT	<u>Low AIR to popular cities</u>
		\$399+	<u>Amazing 6-nt LONDON w/air, hotel</u>
		\$143+ RT	<u>Great fares to FLORIDA</u>
			<u>and MORE</u>
			powered by ShermansTravel.com

USATODAY.com partners: [USA Weekend](#) • [Sports Weekly](#) • [Education](#) • [Space.com](#)

[Home](#) • [Travel](#) • [News](#) • [Money](#) • [Sports](#) • [Life](#) • [Tech](#) • [Weather](#)

Resources: [Mobile news](#) • [Site map](#) • [FAQ](#) • [Contact us](#) • [E-mail news](#)
[Jobs with us](#) • [Internships](#) • [Terms of service](#) • [Privacy policy](#) • [Media kit](#) • [Press room](#)
[Electronic print edition](#) • [Reprints and Permissions](#)

Add USATODAY.com RSS feeds [XML](#)

© Copyright 2006 USA TODAY, a division of [Gannett Co. Inc.](#)